

LFC Requester:

Emily Hilla

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 01/30/2025

Check all that apply:

Bill Number: HB171

Original Correction
Amendment Substitute

Sponsor: Sen. Linda M. Trujillo

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: REDACTION OF PERSONAL INFO IN PUBLIC RECORDS

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Senate Bill 171 (“SB171”) proposes changes to the Recording Act found in NMSA 1978, Section 14-8. More specifically, SB171 proposes changes to NMSA 1978, Section 14-8-9.1(C) by changing the language “protected personal identifier information, as defined in the Inspection of Public Records Act” to an enumerated list of (1) the month and day of birth of a person's date of birth; (2) all but the last four digits of a social security number; and (3) all but the last four digits of a driver's license number.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The language in SB171 replaces the requirements that third parties redact Personal Identifier Information (“PII”) as defined in the Inspection of Public Records Act (“IPRA”). The definition of PII in IPRA contains the suggested enumerated list in SB171 and includes additional requirements for redactions, including: (1) all but the last four digits of a: (a) taxpayer identification number; (b) financial account number; (c) credit or debit card number; or (d) driver's license number; (3) a social security number; and (4) with regard to a nonelected employee of a public body in the context of the person's employment, the employee's nonbusiness home street address, but not the city, state or zip code. Slight differences in the requirements include the requirements in IPRA of redaction of a full social security number and the partial redaction of financial information, including credit card numbers. IPRA further requires some redaction of personal information such as some addresses.

The proposed language in SB171 would be in direct conflict with IPRA. NMSA 1978, Section 14-8-9.1(C) specifically applies to County Clerks and the records those clerks hold. Such records are not only defined as public records in the Records Act, but also IPRA. Such a difference in what should be redacted in both statutes appears to create conflict in statute. To the extent possible, statutes should be harmonized and not read as creating a conflict. Furthermore, if there is a conflict between two statutory provisions — one of them a general statement and the other a specific statement — the court will apply the more specific statement as an exception to the general statement. The proposed language in SB171 and IPRA appear to be in conflict and both

very specific. As such it would likely the more specific statute (IPRA) would apply. If a court were to determine this, the changes proposed in SB171 would likely be moot.

SB171's proposed changes to not include redaction of financial information, including credit card numbers as proposed could violate Title VI of the Consumer Credit Protection Act, or the Fair Credit Reporting Act (the "Act"). The Act protects information collected by consumer reporting agencies such as credit bureaus, medical information companies and tenant screening services. Information in a consumer report cannot be provided to anyone who does not have a purpose specified in the Act. Companies that provide information to consumer reporting agencies also have specific legal obligations, including the duty to investigate disputed information. In addition, users of the information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken on the basis of such reports (*See* 15 U.S.C. § 1681 et seq). Without knowing the extent of the records provided by third parties, SB171 proposed language could require third parties to release information in violation of the Act.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Companionship: House Bill 139 ("HB13") proposes to repeal and replace the Inspection of Public Records Act and replace it with entirely new language.

Such changes could have implications on the applicability of NMSA 1978, Section 14-8-9.1(C) and the proposed changes.

Relationship: Senate Bill 57 ("SB57") proposes language to update IPRA found in NMSA 1978, Sections 14-2-1 to -12 (as amended through 2023). More specifically, SB57 proposes to create a new exception to the IPRA by adding additional language creating a new Section 14-2-1(L) stating "records containing personal identifying information or sensitive information related to the practice of a medical provider employed by a public body who performs medical services related to abortion." This exception would exempt any PII of medical providers employed by public bodies that perform medical services related to abortions from being provided in an IPRA request. SB57 proposes that the previous Section 14-2-1(L) "As otherwise provided by law" would be relabeled as Section 14-2-1(M).

There are no changes that would affect NMSA 1978, Section 14-8-9.1(C).

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

N/A